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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,452	03/12/2007	David Watson	BKYZ 2 00112	2995

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EXAMINER

KHALIL, AHMED

ART UNIT	PAPER NUMBER
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3635

MAIL DATE	DELIVERY MODE
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05/11/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/579,452	WATSON, DAVID	
	Examiner	Art Unit	
	AHMED KHALIL	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 1-10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>05/12/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This communication is a First Office Action on the Merits. Claims 1-10, as originally filed, are pending and have been considered as follows.

Claim Objections

1. Claims 1-10 are objected to because of the following informalities: the term "mould" should be replaced with the term --mold--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 7-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 7, the claim is directed to neither use of product nor product, but rather embraces two different statutory classes of invention set forth in 35 U.S.C. 101. The only exception is a product by process claim, however this is not the case here.

Claims 8-10 are rejected because they depend on claim 7.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1-2, 4-7, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buyer (US 2,019,653) in view of Gregori (US 3,788,020) and further in view of Asbjorn (GB 2,092,201 A).

As per claim 1, Buyer discloses a building block (10), said unit (10) comprising a pair of opposing solid side walls (figure 3) connected by opposing parallel end walls (column 1, lines 35-36 and figure 4), a shoulder (top of the wall, figure 4) extending inwardly and around the upper edge of each of said side walls (figure 4) and wherein reinforcing formers (middle wall) extend at spaced intervals between the side walls (figure 1) to prevent the side walls bowing out, each former (middle wall) being provided with a "V" notch groove (figure 4) to receive the lower edge of an overlying mould unit (figure 1) and wherein the formers (middle wall) are each of similar shape to the end walls so that the mould unit can be cut down in size (figure 1).

Buyer fails to disclose that said unit formed from injection molded plastics and openings formed in each end wall, and the mold is filled with a setting composition.

Gregori discloses a foamed plastic concrete form with fire resistant tension member (10) having formed from injection molded plastic (column 2, lines 9-10), and

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openings (18) formed in each end wall (13 and 14) and the mold is filled with a setting composition (column 1, lines 53-54).

From the teaching of Gregori, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the building block of Buyer to form it from plastic with opening in end walls and filled with setting composition as taught by Gregori to provide a molded unit with high degree of accuracy at low cost so that the form can be quickly erected by unskilled workmen (column 1, lines 43-46).

The combination of Buyers and Gregori fails to disclose that the shoulder includes a "V" notch groove to receive a "V" shaped bottom edge of a further mould unit in an overlying course of mould units.

Asbjorn discloses a building block having shoulder (figure 5a) includes a "V" notch groove (1) to receive a "V" shaped bottom edge (2) of a further mould unit in an overlying course of mould units.

From the teaching of Asbjorn, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the building block of the combination of Buyer and Gregori to include a V-notch groove and V-shaped bottom edge as taught by Asbjorn to guide the blocks in a longitudinal or horizontal direction (lines 12-14).

As per claim 2, Buyer discloses a flange (11) extends up from the inner edge of the shoulder (top of the walls, figure 3) and is inclined to guide the bottom edge of an overlying mould unit into the groove (figure 3).

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As per claim 4, the combination of Buyer, Gregori, and Asbjorn discloses the claimed invention as per claim 1. Buyer discloses apertures are provided in the top and the bottom of the unit (figures 3 and 4), but fails to disclose apertures in the end walls.

Gregori discloses a foamed plastic concrete form with fire resistant tension member (10) having apertures (18) in each end wall (13 and 14).

From the teaching of Gregori, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the building block of Buyer to include openings in the end walls as taught by Gregori to run horizontal reinforcement (column 3, line 55).

As per claim 5, the combination of Buyer, Gregori, and Asbjorn discloses the claimed invention as per claim 1. Buyer further discloses wherein the shoulder (top of the wall) extends across the top of the end walls (figure 4), but fails to disclose the groove extends across the top of the end walls.

Asbjorn discloses a V groove across the top of the walls.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the building block of the combination of Buyer, Gregori, and Asbjorn to include a groove extending across the end wall to guide the blocks in a longitudinal or horizontal direction.

As per claim 6, the combination of Buyer, Gregori, and Asbjorn discloses the claimed invention as per claim 1, but fails to disclose that the walls are substantially 2 mm thick, however it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the building unit of the combination of Buyer and

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Gregori to made the walls 2 mm thick, because it has been held that where the only difference between the prior art and the claims in a recitation of relative dimension, and the claimed element would not perform differently than the prior art, the claimed element is not patentably distinct from the prior art.

As per claims 7 and 10, the combination of Buyer, Gregori, and Asbjorn discloses the claimed invention as per claim 1; Gregori discloses the use of a mold unit (column 3, line 44) in a method of constructing a building comprising the steps of:

- laying the foundation (column 3, lines 44-45).
- assembling a wall or part of a wall from the units (10) (column 2, lines 53-54).
- feeding utilities (29) through the assembled or part assembled wall of hollow mold units (column 3, lines 45-46), and after installation of the utilities.
- filling the assembled mold units (10) with a setting composition (column 3, lines 46-47).

and wherein the setting composition includes concrete (column 3, lines 46-47).

From the teaching of Gregori, it would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify the building block of the combination of Buyer, Gregori, and Asbjorn to include the use of mold unit in a method of constructing a building as taught by Gregori which does not require bracing, tie wires or shoring.

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6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buyer (US 2,019,653) in view of Gregori (US 3,788,020), Asbjorn (GB 2,092,201 A) and further in view of Hsi (US 4,341,049).

The combination of Buyer, Gregori, and Asbjorn discloses all the structural elements as per claim 1, but fails to disclose wherein knockout panels are formed in the side walls.

Hsi discloses a system for building wall construction having block (22), said block (22) has knockout panels (54) are formed in the side walls (24 and 26, figure 3).

From the teaching of Hsi, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include knockout panels in the side walls as taught by Hsi to incorporate the electrical conduits (column 6, line 61).

7. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buyer (US 2,019,653) in view of Gregori (US 3,788,020), Asbjorn (GB 2,092,201 A) and further in view of Rice et al (US 5,724,782).

As per claim 8, the combination of Buyer, Gregori, and Asbjorn discloses the claimed invention as per claim 7, but fails to disclose the use of mold units comprising the steps of : forming apertures for window and door frames into the wall as the wall is assembled, and installing window and door frames into the apertures prior to filling with the setting composition.

Rice et al discloses a system and method for constructing building comprising the steps of: forming apertures for window and door frames into the wall as the wall is assembled (column 4, lines 23-24), and installing window and door frames into the

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apertures (column 4, lines 52-55) prior to filling with the setting composition (column 4, lines 56-60 and column 5, lines 21-22).

From the teaching of Rice et al, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify building block and the method of using it of the combination of Buyer, Gregori, and Asbjorn to form aperture for door and window and install the frames prior to filling the setting composition as taught by Rice et al to increase the bond between the frame and the wall assembly.

As per claim 9, the combination of Buyer, Gregori, and Asbjorn discloses the claimed invention as per claim 7, but fails to disclose wherein insulation board and/or finishing board is screwed into the wall prior to filling the wall, whereby the apertures in the ends of the mould units are sealed up.

Rice et al discloses a system and method for constructing building having board and/or finishing board is screwed into the wall (column 4, lines 46-48) prior to filling the wall (column 5, lines 21-22), whereby the apertures in the ends of the mould units are sealed up.

From the teaching of Rice et al, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify building block and the method of using it of the combination of Buyer, Gregori, and Asbjorn to screw a finishing board into the wall prior filling the wall as taught by Rice et al to have the interior tab (screw) is cast into the wet concrete and creates an embedded anchor for the load bearing requirements of the exterior finish (column 4, lines 49-51).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Fischer (US 4,109,409) discloses structural element for construction kits and method of making the element.

Sanders et al (US 6,735,913) discloses block wall system.

Abdul-Baki (US 5,901,520) discloses interlocking building blocks.

Azar (US 2003/0079432) discloses building blocks.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AHMED KHALIL whose telephone number is (571)270-5744. The examiner can normally be reached on Mon-Fri 7:30 AM to 5:00 PM (Alt. Fri. Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/AK/
Examiner, Art Unit 3635

/Richard E. Chilcot, Jr./
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